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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,862	06/27/2003	M. Bret Schneider	Telecath	8207
42293	7590	09/13/2007		
DEANNA J. SHIRLEY 3418 BALDWIN WAY SANTA ROSA, CA 95403			EXAMINER KOHARSKI, CHRISTOPHER	
			ART UNIT 3763	PAPER NUMBER
			MAIL DATE 09/13/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/608,862	<b>Applicant(s)</b> SCHNEIDER ET AL.	
	<b>Examiner</b> Christopher D. Koharski	<b>Art Unit</b> 3763	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/09/2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,8-13,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-13,21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges the RCE filed 7/09/2007 in which claims 1 and 8 were amended; Examiner also acknowledges the formal drawings submitted 7/09/2007. Currently claims 1-6, 8-13, 21 and 22 are pending for examination in this application.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5-6, and 8-13 rejected under 35 U.S.C. 102(b) as being anticipated by Belef (6,485,482). Belef discloses a rotational and translational drive coupling assembly for a catheter.

Regarding claims 1-2, 5-6, and 8-13, Belef discloses a method and apparatus for manipulating an flexible elongate member (16) during a medical procedure, wherein a base (12) with a stand (26) and a module (36) are coupled to the elongate member (16), the method/device comprising: receiving input from a user to manipulate the elongate member (16) with a biasing mechanism and clip (Figure 3) in order to perform a medical procedure; sending signals to motors (84, 92) to advance and rotate the elongate member (16) (Figures 2A-2C) via coupled wheels (32, 34), wherein the module (36) comprises a first and second end, a first plane comprising a length and an axis extending along said length of the module, wherein the module (36) is coupled to the

stand (26) at a first and second end permitting rotation of the module substantially along said axis of the elongate member (Figures 1-4) (cols 1-4).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3-4 are rejected under 35 U.S.C 103(a) as being unpatentable over Belef in view of Beyar (6,726,675). Belef meets the claim limitations as described above except for the specific pointing device.

However, Beyar teaches a remote control catheterization device.

Regarding claims 3-4, Beyar teaches a remote catheter (26) control mechanism (28, 30) which uses a computing system (34) with a pointing device (40) to control catheter movement (Figure 1-4).

At the time of the invention, it would have been obvious to add the computer and pointing device to the system of Belef in order to aid in user control and make the

system easier to control during a medical procedure. The references are analogous in the art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Beyar (cols 1-4).

***Claim Rejections - 35 USC § 103***

Claims 21-22 are rejected under 35 U.S.C 103(a) as being unpatentable over Belef in view of Brock et al. (2002/0095175). Belef meets the claim limitations as described above except for specific mention of fine resolution control.

However, Brock et al. teaches a flexible instrument controller.

Regarding claims 21-22, Brock et al. teaches a computer system that allows for more precise control over a remotely controlled medical tool with the aide of a computer system (abstract, Figures 1-6).

At the time of the invention, it would have been obvious to add the algorithms and computer programming of Brock et al. to the system of Belef to promote accurate and precise medical intervention. The references are analogous in the art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Brock et al.

***Suggested Allowable Subject Matter***

The following claim subject matter is suggested by the examiner and considered to distinguish patentably over the art of record in this application and is therefore presented to Applicant for consideration:

Examiner suggests addition of structure (Figure 2) used to rotate and translate the elongate member (55, 63).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-6, 8-13, 21 and 22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Koharski whose telephone number is 571-272-7230. The examiner can normally be reached on 7:30am to 4:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Date:

9/11/07



Christopher D. Koharski  
AU 3763



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